

Members

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Sen. Anita Bowser
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Judge Robyn Moberly
Sharon Bradford



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-24-11-1

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MEETING MINUTES¹

Meeting Date: October 28, 2005
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. David Ford, Chairperson; Sen. Brent Steele; Sen. Anita Bowser; Sen. Billie Breaux; Rep. Cleo Duncan; Rep. Andrew Thomas; Rep. Clyde Kersey; Rep. Vanessa Summers; John Brandt; Bruce Pennamped; Judge Robyn Moberly.

Members Absent: Sharon Bradford.

Senator Ford, Chairperson, called the second meeting of the Indiana Child Custody and Support Advisory Committee ("Committee") to order at 1:15 P.M.

Consideration of Legislative Proposals

PD 3414² -- Relocation Issues in Family Law Matters

Preliminary draft (PD) 3414, a revised version of PD 3248, does the following:

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

² Exhibit 1

- (1) Requires an individual who has or is seeking custody of or parenting time with a child and who intends to relocate to:
 - (A) provide notification to an individual who has or is seeking custody of, parenting time with, or grandparent visitation with the child by registered mail not later than 90 days before the individual intends to move; and
 - (B) provide specific information in the notice unless providing the information would create a significant risk of substantial harm to the individual or the child.
- (2) Provides that a court may consider the intent to relocate a child in an initial custody hearing.
- (3) Provides that:
 - (A) not later than 60 days after the nonrelocating parent receives the notice, a nonrelocating parent may file a motion with the court to prevent the relocation of a child;
 - (B) if the nonrelocating parent fails to file a motion with the court, the individual may relocate;
 - (C) upon request of either party, the court shall hold a full evidentiary hearing; and
 - (D) the relocating individual has the burden of proof that the relocation is made in good faith and for a legitimate purpose.
- (4) Establishes:
 - (A) additional factors the court may consider in determining whether to modify the custody, parenting time, grandparent visitation, or child support orders in actions concerning relocation; and
 - (B) factors the court may consider in granting or denying a petition to prevent relocation of a child.
- (5) Repeals provisions concerning notice of the relocation of a child in child custody matters.

Judge Robyn Moberly, a member of the Committee, discussed the changes to the original proposed bill draft (PD 3248) on relocation issues in family law matters. Judge Moberly noted that the changes included: (1) removing provisions that a parent move at least one hundred (100) miles before notice is required; (2) requiring notice be given to a grandparent who has visitation rights; (3) awarding attorney fees in accordance with current law; and (4) allowing the court to order that information be maintained by the clerk of the court in a secure and separate location, if necessary.

In response to questions from members of the Committee, Judge Moberly noted that when a parent provides a revised parenting time schedule with a notice, the parties would need to file the revised schedule with the court and receive a court order for the modification of parenting time. If the parties do not get a court order modifying the parenting time, a parent requesting modification of parenting time at a later date would have to petition modifying the original parenting time order and not the revised parenting time schedule. She indicated that this is what happens under the current law. She also indicated that with the changes to the proposed bill draft, a person who has custody or parenting time with a child would have to file notice even if they are just moving down the block.

Judge Michael Scopelitis testified that the Domestic Relations Committee of the Judicial Conference of Indiana (DRC) had reviewed the original proposed bill draft (PD 3248) and had some recommendations. First, he noted that the proposed bill draft is important legislation. He indicated that the policies concerning family law have changed over time, and the current policy is that both parents should raise a child. He noted that, as

a result, parents need to cooperate and provide stability to the child and that relocation of a parent creates incredibly difficult issues in regard to this policy. Secondly, he stated that the DRC discussed the distance a parent must move before the parent is required to give notice under law. He indicated that any move could cause a change in school corporations, disruption in the exercise of mid-week parenting time, and other issues. He also stated that both the custodial and the noncustodial parent should provide notice and that a custodial parent has a right to depend on the noncustodial parent to help raise the child. He indicated that it is common courtesy to notify the other parent of a relocation. Judge Scopelitis suggested that grandparents who have court ordered visitation should receive notice of a relocation. He further noted that DRC had concerns with the language regarding awarding of attorney fees and suggested that the general statutes concerning attorney fees should apply to protect against a parent frivolously asking to relocate or objecting to a relocation. Finally, he stated that a court should be able to order the information provided be kept separate and secure when necessary and that there were concerns with the ex parte language.

Judge Scopelitis explained that Judge Moberly had attempted to address the DRC's concerns with her changes to the original proposed bill draft. He asked that the members of the Family Law Section of the Indiana State Bar Association who practice in the family law area review the current bill draft (PD 3414) and provide suggestions. He also noted that the language in the draft concerning "good faith" was very subjective, and Judge Moberly had added "and for a legitimate purpose." In response to questions from members of the Committee, Judge Scopelitis stated that the DRC had not seen the proposed bill draft with Judge Moberly's changes, and therefore, could not comment on the current proposed bill draft (PD 3414).

Members of the Committee noted that attorneys who practice in the area of family law have reviewed and continue to review the proposed bill draft. Members of the Committee recommended the proposed bill draft move forward at this time. Representative Thomas noted his concerns with portions of the proposed language.

Mr. Robert Monday, representing the Children's Rights Council, testified that he had never seen a proposal that had such widespread interest among all affected constituencies as this proposed bill draft on relocation issues in family law matters. He noted that there is an expectation that both parents be involved with the child. He strongly encouraged the Committee to move the legislation forward at this time. Mr. Monday provided a handout³ on his testimony.

Mr. Randall Richter, a concerned parent, testified that custodial parents are able to move too easily. He further indicated that the proposed bill draft would not cover his situation where his wife had moved while they were separated. However, he stated that he did not know how this situation could be addressed under the law.

Julie Robbins, a custodial parent, testified that she liked the changes to the original proposed bill draft, and she supported removing the language that a parent must move at least one hundred (100) miles before notice is required. She also indicated the requirement that notice be given ninety (90) days before a parent relocates was reasonable.

Representative Thomas noted some technical changes that may need to be addressed in the proposed bill draft at a later date.

³ Exhibit 2

PD 3414 was approved by Committee members in a roll call vote, 11-0.⁴

Other Business

Final Report

The Committee voted 11-0 to approve the final report.

Adjournment

Senator Ford adjourned the meeting at approximately 2:30 P.M.

⁴ Exhibit 3